

**IN THE CIRCUIT COURT OF BUCHANAN COUNTY, MISSOURI**

STATE OF MISSOURI, ex rel.	)	
Jeremiah W. Nixon, Attorney General,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. _____
	)	
HAGUE QUALITY WATER OF )	)	Division _____
KANSAS CITY, INC.,	)	
a Kansas Corporation,	)	
711 North Lindenwood	)	
Olathe, KS 66062,	)	
	)	
Defendant.	)	
	)	
SERVE:	)	
Missouri Secretary of State	)	
600 West Main Street	)	
Jefferson City, MO 65201	)	

\_\_\_\_\_**PETITION FOR INJUNCTIVE RELIEF, RESTITUTION,**  
\_\_\_\_\_**COSTS AND CIVIL PENALTIES**

\_\_\_\_\_  
Plaintiff, the State of Missouri, pursuant to §§ 407.020 *et. seq.*, RSMo 2000, by  
and through its Attorney General and Assistant Attorney General, states and alleges as  
follows:

1. Jeremiah W. (Jay) Nixon is the duly elected and acting Attorney General of  
the State of Missouri and brings this action in his official capacity pursuant to §§ 407.020  
*et. seq.*, RSMo 2000. He has authorized Sue A. Sperry, assistant attorney general, to act  
on his behalf in this matter.

2. Defendant Hague Quality Water of Kansas City, Inc., ("Hague") is a corporation duly organized under the laws of the State of Kansas with its principal place of business at 711 North Lindenwood, Olathe, KS 66062.

3. Although Hague was registered to do business in the State of Missouri as a foreign corporation, it was administratively dissolved by the state on June 14, 1999. Because it does not maintain a current registered agent for service of process in the state, it may be served by serving the Missouri Secretary of State as provided for by § 351.380, RSMo 2000.

4. This Court has jurisdiction of this matter pursuant to § 407.100 RSMo 2000, which, as set forth below, allows the Attorney General to seek injunctive relief, restitution, costs and penalties in Missouri circuit court for violations of § 407.020.

5. This Court has jurisdiction over the defendant pursuant to § 506.500(1), RSMo 2000 because it has transacted and is transacting business in the State of Missouri.

6. Venue is proper in this Court under § 407.100, because violations of § 407.020 occurred in St. Joseph, Buchanan County, Missouri.

7. Section 407.020 RSMo 2000 provides, in pertinent part:

The act, use, or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of

any funds for any charitable purpose, as defined in Section 407.453, in or from the State of Missouri, is declared to be an unlawful practice.

Section 407.100 RSMo 2000, provides:

1. Whenever it appears to the Attorney General that a person has engaged in, is engaging in, or is about to engage any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, he may seek and obtain, in an action in a circuit court, an injunction prohibiting such person from continuing such methods, acts, uses, practices, or solicitations, or any combination thereof, or engaging therein, or doing anything in furtherance thereof.

2. In any action under subsection 1 of this section, and pursuant to the provisions of the Missouri Rules of Civil Procedure, the attorney general may seek and obtain temporary restraining orders, preliminary injunctions, temporary receivers, and the sequestering of any funds or accounts if the court finds that funds or property may be hidden or removed from the state or that such orders or injunctions are otherwise necessary.

3. If the court finds that the person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, it may make such orders or judgments as may be necessary to prevent such person from employing or continuing to employ, or to prevent the recurrence of, any prohibited methods, acts, uses, practices or solicitations, or any combination thereof, declared to be unlawful by this chapter . . .

6. The court may award to the state a civil penalty of not more than one thousand dollars per violation; except that, if the person who would be liable for such penalty shows, by a preponderance of the evidence, that a violation resulted from

a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, no civil penalties shall be imposed.

7. Any action under this section may be brought in the county in which the defendant resides, where the violation alleged to have been committed occurred, or where the defendant has his principal place of business.

8. "Advertisement" is defined by § 407.010(1) as "the attempt by publication, dissemination, solicitation, circulation, or any other means to induce, directly or indirectly, any person to enter into any obligation or acquire any title or interest in any merchandise."

9. "Merchandise" is defined by § 407.010(4) as "any objects, wares, goods, commodities, intangibles, real estate or services."

10. "Sale" is defined by § 407.010(6) as "any sale, lease, offer for sale or lease, or attempt to sell or lease merchandise for cash or credit."

11. "Trade or Commerce" is defined by § 407.010(7) as "the advertising, offering for sale, sale, or distribution, or any combination thereof, of any services and any property, tangible or intangible, real personal, or mixed and any other article, commodity, or thing of value wherever situated. The terms 'trade' and 'commerce' include any trade or commerce directly or indirectly affecting the people of this state."

## **I. FACTS**

12. Plaintiff incorporates by reference paragraphs 1. through 11. above as if fully set forth herein.

13. Defendant is in the business of selling water treatment systems.

14. In order to find potential customers, defendant places boxes advertising a contest to win a jet ski or car in various public locations. Persons who fill out contest entry forms and place them in the boxes then receive sales calls from defendant's employees.

15. Defendant does not disclose on its contest box or entry forms that persons who enter the contests will receive sales calls from defendant's employees.

16. In order to entice potential customers to allow defendant's employees to come to their homes and give sales presentations, defendant has promised customers they will receive free trips to Branson, MO.

17. The trips promised by defendant were not, in fact, free and were subject to many previously undisclosed terms and conditions that make it impractical or impossible for customers to utilize them.

18. Defendant's employees go to the homes of Missouri residents and give sales presentations, usually lasting more than two hours, in which they "test" the residents' tap water for various conditions, including "hardness" and the presence of chlorine.

19. During defendant's sales pitch, all potential customers are told that their water has a high level of hardness. They are also told that their tap water contains chemicals and substances that have been proven to be hazardous to their health.

19. Defendant's employees tell all customers that defendant's water systems will alleviate the hardness of their water and remove all of the harmful chemicals and substances.

20. Defendant's employees tell all customers that they will save specific amounts of money on the amount of water, gas and electricity they use if they buy one of defendant's systems.

21. Defendant's employees tell all customers that they will save specific amounts of money on soap used in dish washing, hand washing, hair washing, showering, cleaning and laundry if they buy one of defendant's systems because the system will greatly reduce the amounts needed to clean.

22. As part of their sales pitch, defendant's employees tell all customers that they will receive free of charge several years' supply of various soaps that would otherwise sell at specific prices.

23. As part of their sales pitch, defendant's employees tell all customers that they will be able to pay for the system from the savings it will provide them in soap and other costs.

24. Customers are told by defendant's employees that they are being offered "special promotions" including price reductions and free soap which are only available for a limited time.

25. Defendant's employees' sales pitch and representations come from a booklet called "Quality Water of Kansas City Training Manual" for which defendant's owner Matt Connolly has publicly claimed authorship.

26. When customers purchase one of defendant's systems, they are told by defendant's employees that when they make a certain montly payment, the system will be paid for in four or five years.

27. Customers are not told that, after purchasing defendant's system, if they pay only the monthly amount specified by defendant's employees, they will incur substantial finance charges which will accrue each month, causing the total amount paid for the system to be thousands of dollars more than the total purchase price represented by defendant.

28. Defendant through its agents and employees has engaged in the above activities and upon information and belief, is still engaging in many of them.

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**MERCHANDISING PRACTICES VIOLATIONS**

29. Plaintiff incorporates by reference paragraphs 1. through 28. above as if fully set forth herein.

30. The above-described activities constitute the marketing, offering, advertisement, promotion and/or sale of merchandise, to wit: water treatment systems and soap, in trade or commerce in the State of Missouri pursuant to §§ 407.010 and 407.020.1, RSMo 2000.

31. Before, during, after and in connection with the marketing, offering, advertising and/or selling of such services, Defendant, through its employees, agents, employees and representatives have engaged in deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of material facts, all declared to be unlawful under §407.020, RSMo 2000, in the following respects among others:

(a) Failing to disclose to persons who fill out entry forms and place them in Hague contest boxes the material fact that those persons will receive sales calls from Hague sales employees;

(b) Failing to disclose to persons who receive sales calls from Hague sales employees the material fact that the employees are following a prepared script and that all potential Hague customers are told almost exactly the same things, including that their water is hard and that it contains potentially harmful chemicals, whether it actually does or not;

(c) Failing to disclose the material fact that the "free" trips to Branson defendant tells customers they will receive are not, in fact, free, but are subject to many previously



undisclosed terms and conditions that make it impractical or impossible for customers to utilize them;

(d) Representing to consumers that they are receiving free of charge soaps that would otherwise cost them specific amounts, when all consumers who purchase defendant's water systems receive the same soaps at no charge;

(e) Representing to consumers that they are being offered "special promotions" including price reductions and free soap which are only available if they purchase the system immediately, when in fact, all consumers are offered these same reductions and no charge items regardless of when they purchase the system;

(f) Representing to consumers that defendant's system will cause them to save money by using less soap, when in fact, consumers end up using as much or more soap; with defendant's system than they used without it; and

(g) Failing to disclose to consumers the material fact that after purchasing defendant's system, if they pay only the monthly amount specified by defendant's employees, they will incur substantial finance charges which will accrue each month, causing the total amount paid for the system to be thousands of dollars more than the total purchase price represented by defendant and that the system will not be paid for in four or five years as represented.

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**PRAYER FOR RELIEF**

WHEREFORE, the Attorney General prays this Court for the following relief:

A. A judgment that Defendant Hague Quality Water of Kansas City, Inc., has violated § 407.020, RSMo 2000, as aforesaid;

B. Preliminary and permanent injunctions, pursuant to § 407.100.1, RSMo, 2000, enjoining Hague Quality Water of Kansas City, Inc., its owners, officers, directors, subsidiaries, agents, employees, representatives, attorneys, assigns, and all those acting for them in whatever capacity from:

1. Violating § 407.020, RSMo 2000 by the act, use or employment of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression or omission of any material fact in connection with the sale or advertisement of any merchandise, including but not limited to water treatment systems and soaps in trade or commerce in or from the State of Missouri, including but not limited to, that conduct alleged herein in a form determined to be sufficient by this Court after hearing evidence on same.

C. An Order awarding the State of Missouri restitution, pursuant to § 407.100.4, on behalf of all Missouri consumers who have suffered out of pocket loss by reason of the above alleged violations and an additional amount to be paid into the state treasury for the benefit of the Merchandising Practices Revolving Fund as provided in § 407.140.1., RSMo 2000.

D. An Order awarding the State of Missouri a civil penalty of One Thousand Dollars (\$1,000.00) against defendant for each and every violation of § 407.020, in accordance with §407.100.6.

E. An Order requiring defendant to pay all court costs incurred in this action and all costs of investigation and prosecution of this action, including a reasonable attorney's fee incurred by the Attorney General's Office, as provided for by § 407.130, RSMo 2000.

F. Such further relief as the Court deems just and proper.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
Attorney General

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